

initial operation period of the Pilots, the Commission did not receive any comments, and, the Commission expects the Exchange to request permanent approval of these rules during the Pilot extension period. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁰ The pilot will be effective for six months from April 5, 2003 until October 5, 2003.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-2003-23 and should be submitted by May 29, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47775; File No. SR-CBOE-2003-05]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto, by the Chicago Board Options Exchange, Inc. To Prohibit Clearing Firms From Accepting Certain Third-Party Deposits

April 30, 2003.

On February 10, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to establish CBOE Rule 4.21 which would prohibit, with certain exceptions, member firms that clear and carry the accounts of options market makers ("Clearing Firms") from accepting deposits to such accounts if the check, funds transfer or securities is drawn from a third party's account. The proposed rule change also would establish record retention requirements for the Clearing Firm to follow if it accepts deposits from third parties pursuant to the permitted exceptions. The CBOE filed Amendment No. 1 to the proposal on March 5, 2003. The proposed rule change, as amended, was published for comment in the **Federal Register** on March 28, 2003.³ The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular, the requirements of section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds that the rule change is consistent with section 6(b)(5) of the Act,⁶ which requires, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest. The rule change establishes a practice

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 47553 (March 21, 2003), 68 FR 15254.

⁴ In approving this proposed rule change, as amended, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

that should help to protect Clearing Firms from risks associated with improper transfers of funds and securities.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁷ that the proposed rule change, as amended, (File No. SR-CBOE-2003-05) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47767; File No. SR-NSCC-2003-06]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Modifying Clearing Fund Rules and Procedures

April 30, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,¹ notice is hereby given that on April 7, 2003, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change eliminates the reference to "bearer" bonds in section 1 of NSCC's Rule 4 (Clearing Fund) because bearer bonds have not been issued for some time and consequently are not eligible for deposit with NSCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

¹⁰ For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 17 CFR 200.30-3(a)(12).

rule change. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.²

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Prior to this rule change, Rule 4, section 1 of NSCC's Rules and Procedures stated that NSCC, in its discretion, could permit part of a participant's clearing fund deposit to be evidenced by an open account indebtedness secured by "bearer" bonds. This proposed rule change eliminates the reference to "bearer" bonds because bearer bonds have not been issued for some time now and consequently are not eligible for deposit with NSCC.

NSCC believes that the proposed rule change is consistent with the provisions of section 17A of the Act³ and the rules and regulations thereunder because it makes a technical change to NSCC's rules to properly reflect the type of bonds eligible for clearing fund purposes and because it constitutes a stated practice with respect to the administration and enforcement of an existing rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act⁴ and of Securities Exchange Act Rule 19b-4(f)(4)⁵ because the proposed rule change effects a change in an existing service that does not adversely affect the safeguarding of securities or funds in NSCC's custody or control and does not significantly affect the respective rights

or obligations of NSCC or the persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street NW, Washington, DC 20549-0069. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR-NSCC-2003-06. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at NSCC's principal office. All submissions should refer to File No. SR-NSCC-2003-06 and should be submitted May 29, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-11446 Filed 5-7-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47786; File No. SR-PCX-2003-08]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Pacific Exchange, Inc., Relating to a One-Year Pilot for Options Intermarket Linkage Fees

May 2, 2003.

On March 11, 2003, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its fee structure to clarify which fees apply to trades pertaining to the options intermarket linkage ("Linkage") and to specify that such fees are for a one-year pilot. On March 21, 2003, PCX submitted Amendment No. 1 to the proposed rule change.³

The Commission published the amended proposal for comment in the **Federal Register** on March 28, 2003.⁴ The Commission received no comments on the proposal. This order approves the proposal rule change, as amended.

Two PCX fees would apply to Linkage trades other than satisfaction orders: A per transaction per contract side fee of \$.21; and a \$.05 comparison fee. Each of these Linkage-related fees would be implemented as a one-year pilot, expiring on January 31, 2004.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁵ and, in particular, the requirements of section 6 of the Act.⁶ The Commission finds that the proposed rule change is consistent with section 6(b)(4) of the Act,⁷ which requires that the rules of an exchange provide equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Mai Shiver, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated March 18, 2003 ("Amendment No. 1").

⁴ See Securities Exchange Act Release No. 47560 (March 21, 2003), 68 FR 15257.

⁵ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

² The Commission has modified the text of the summaries prepared by NSCC.

³ 15 U.S.C. 78q-1.

⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵ 17 CFR 240.19b-4(f)(4).

⁶ 17 CFR 200.30-3(a)(12).